



**MINISTRY OF INDUSTRY, BUSINESS
AND FINANCIAL AFFAIRS**

Margrethe Vestager
Executive Vice-President for a Europe fit for the Digital Age
European Commission

**MINISTER FOR INDUSTRY,
BUSINESS AND FINANCIAL
AFFAIRS**

Dear Executive Vice-President Margrethe Vestager,

Please accept my warmest congratulations on your appointment as Executive Vice-President for a Europe fit for the Digital Age and Commissioner for Competition.

A timely response to the challenges and seizing the opportunities posed by climate change and rapid digitalization is of critical importance to ensure a more sustainable and prosperous EU. I would like to present you with the Danish agenda in your area of responsibility, which I hope you will read with interest.

Maintain the core principles of competition

I have positively noticed that you have been tasked with the continued strengthening of competition enforcement. Effective enforcement should be a priority in all sectors and especially in the digital economy, where technological developments challenge our market structures.

A fair and effective competition policy is a cornerstone of the Single Market and a prerequisite to bolster EU's global competitiveness in the future. Thus, it is important to maintain and *not* relax the existing competition framework and the EU Merger Regulation.

However, I recognize the tendency towards increased unfair competition and the need to react and safeguard European interests. The best way to preserve fair global competition and a level playing field is through common rules applicable to all, rooted in the WTO. Thus, it is encouraging that the incoming Commission aims to make reform of the multilateral trading system a top priority. This must include an update of the rules so they address unfair market-distorting trade practices and reflect today's digital economy. Therefore, we can agree that it should be assessed whether EU's competition framework is fit for purpose to address anti-competitive practices. For instance, we do see potential in making it easier for national and European competition authorities to respond more swiftly to anti-competitive behaviour from platforms. We may also need instruments to handle distortive behaviour from companies from third countries operating within the Single Market without relaxing the principles of independent enforcement, free and fair competition.

Towards a competitive and climate-friendly European industry

European industry is a key player in restoring the EU's global competitiveness as well as fulfilling the Paris Agreement. The upcoming action-plan for industry should set a clear political direction with an emphasis

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on cost-effective and market-based measures that encourage businesses to make necessary investments needed for the transition to a competitive, circular and climate-neutral European industry.

Furthermore, I would encourage you to make sure that the work on Important Projects of Common European Interest (IPCEIs) related to strategic value chains contribute to achieve our climate and environmental objectives. Moreover, we should improve the transparency of IPCEIs by introducing ex-ante consultation. This will allow all Member States to easily participate and contribute.

There is also a need to re-think the future set-up for identifying strategic value chains. To this end, we need a new procedure for identifying, amending or phasing out strategic value chains. The procedure should maintain the original bottom-up approach characterizing the current Strategic Forum while ensuring political legitimacy and governance and directing initiatives towards major challenges such as climate change.

Moreover, I encourage you to lay down the pillars for a robust framework for secure, interoperable and trustworthy data sharing that can sustain public trust in data usage and contribute to the green transition of industry. We should openly discuss how best to encourage and ensure more data sharing through an ethical and coherent European framework as the use of data is vital for European businesses if they are to be global frontrunners of the data economy.

The external dimension of EU's industrial competitiveness should be pursued through a free, fair and sustainable trade policy based on updated multilateral rules. To this end, we fully support the need to secure a level playing field at global level and fight protectionist and unilateral measures. However, the Danish Government is still not convinced that the current proposal for an International Procurement Instrument (IPI) is the right way forward. When resuming discussions on the IPI, we would like to see further clarification and revision in order to avoid negative effects.

Finally, a strong European industrial sector depends critically on a competitive and innovative Single Market. Effective implementation and enforcement are key components towards making the Single Market both fairer and smoother for law-abiding businesses, consumers and workers. We need a firm and ambitious long-term action plan containing concrete initiatives on how to improve the uniform implementation, application and enforcement of our common rules.

Digital trust as an enabler of Artificial Intelligence

I have positively noticed the aim of the new Commission to deliver a European approach to artificial intelligence within your first 100 days in office. In this regard, the aim should be to make data ethics a competitive advantage for European businesses going hand-in-hand with innovation. A European approach could make us a frontrunner in the responsible use of artificial intelligence and data. By introducing a European Data Ethics Seal we would enable consumers to easily identify companies who take data ethics seriously. Together with a requirement for the largest European companies to publish their data ethics policies, the digital economy would become more transparent for consumers. Attached you will find a non-paper explaining our suggestions to this agenda.

European legislation fit for the digital age

I encourage you to ensure that European legislation is digital-by-default and future-proof as this it is a precondition for a well-functioning Digital Single Market. In Denmark, we have introduced a set of principles on digital-by-default and future-proof regulation. I would be happy to share our experience on the use of these principles in lawmaking and further discuss how such principles could be implemented at the European level. Attached you will find a non-paper explaining the Danish principles and priorities on this agenda.

Cross-border digital services is a vital tool to make life easier for citizens and businesses within the Single Market. In this context, I would urge you to take into account the special situation of the public sector as a guarantor of maintaining public confidence in digital infrastructure systems and public digital procedures for instance regarding data transparency and interoperability, and trustworthy electronic identification.

A modern and responsible framework for the platform economy

It is time to modernize the regulatory framework of the platform economy in order to ensure digital responsibility, better cross-border enforcement and to address emerging issues that are not dealt with under the current rules. In doing so, we should also tackle the increasing fragmentation of the regulatory framework for digital services that constitute barriers to scaling up within the Digital Single Market. A modernized framework for the European platform economy should maintain the essence of the e-Commerce Directive, namely the country of origin principle, which the European platform economy has benefitted immensely from. At the same time, we face an important and necessary discussion with regards to liability regimes and the responsibilities of especially large and influential companies in handling data versus the possibilities for smaller companies to develop new business models and scale up across the Single Market. We should modernize the regulatory framework to find horizontal solutions that address the emerging issues in the platform economy, eradicates regulatory fragmentation through uniform

application and enforcement of the notice and take down of illegal content across the EU while strengthening the competitiveness of the European platform economy.

I hope these ideas will be useful for you in laying out the agenda for your important portfolio for the coming years and I look forward to work together with you to strengthen European competitiveness to the benefit of all Europeans.

Finally, I look forward to continuing the fruitful cooperation with DG Competition on enforcing the competition rules and ensuring well-functioning markets in the EU.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Simon Kollerup". The signature is written in a cursive style with a large initial 'S' and a long, sweeping underline.

Simon Kollerup

Proposal

Data Ethics as Corporate Social Responsibility

The Commission should consider a revision of the directive as regards *disclosure of non-financial and diversity information by certain large undertakings and groups*. The revision should include provisions for certain large undertakings - to prepare a non-financial statement containing information relating to their data ethics policies as part of their annual management reports.

European Data Ethics Seal

The Commission should encourage the development of a European Data Ethics Seal by the relevant industry and standardization bodies. The seal should be awarded to companies, products and services that meet a pre-defined list of data ethical requirements e.g. companies or products that meet high standards for data security, companies or products that do not collect unnecessary data on the user, or companies or products that have been tested for bias etc. The European Data Ethics Seal could be a way to operationalize the Commission's idea of "ethics by design" and make it visible for consumers which companies, products and services to trust - and thus creating a market incentive for producers to become more data ethical.

Standards on AI Trustworthiness

The Commission should investigate the possibilities for promoting the use of technical standards on AI Trustworthiness in the European legislation. ISO/IEC and CEN/CENELEC as well as the IEEE are currently working on different aspects of standardization of AI and ethics/trust. The inherent agility of technical standards could create the necessary balance between long-term durability and short-term efficiency.

Challenge

Trust is the most important component in ensuring wide uptake of digital technology and solutions. It is thus of the utmost importance that the European Union succeeds in creating a legal and ethical framework that can ensure citizens' trust in the new technologies. Moreover, the responsible use of data has the potential to become a competitive advantage for European businesses in the competition with American and Chinese companies. In order to give EU businesses a first mover advantage, the EU should take concrete steps to strengthen data and AI ethics through transparency, and thus empowering consumers and businesses to choose products and solutions that are based on a responsible use of AI and data.

Background

Our ambition as a European community should be to break down national silos to ensure that the leading digital companies of the future will be European. EU has a very important global role in terms of promoting the responsible and ethical approach to data use. We are convinced that Europe not only could, but should lead the way for responsible use of data - and thereby potentially gain an invaluable competitive advantage on the global marketplace.

Digital-by-default and future-proof regulation

Proposal

To ensure that EU regulation is digital-by-default and future-proof, the Commission should introduce a set of principles on digital-by-default and future-proof regulation and initiate targeted measures at all stages of the legislative cycle to enforce these principles. These measures should have a two-fold purpose:

1. Enable digital administration to promote more user-friendly and efficient public services to businesses and citizens as well as to improve enforcement and prevent errors and fraud.
2. Provide a future-oriented regulatory framework to accommodate and enable businesses to innovate and apply new technologies and business models.

The set of principles could be the following six: 1) Simple and clear rules, 2) Accommodate new business models and technology-neutrality, 3) Digital communication, 4) Automated digital case processing, 5) Coherence and consistency across regulation and authorities - uniform concepts and reuse of data, 6) Improving enforcement and preventing errors and fraud. Needless to say, safe and secure data handling is a fundamental precondition that should accompany these efforts. See annex 1 for a description of the principles.

It is vital to ensure that the principles on digital-by-default and future-proof regulation are considered by the relevant Directorate-General in the early drafting stages of a proposal and in relation to the impact assessments. The implementation of the following procedures will ensure proper enforcement of the principles. An early screening could determine whether the principles are relevant and, if that is the case, whether they have been followed. The existing better regulation structure within the Secretariat-General could carry out the screening drawing on the expertise from relevant units in DG CONNECT and DG DIGIT. Measures later in the legislative process can also be considered - such as ex-ante digital-by-default and future-proof checks by the Regulatory Scrutiny Board. Finally, ex-ante and ex-post evaluations such as user journeys, user-friendliness tests and REFIT-activities can evaluate whether regulation has been meaningfully translated into user-friendly digital solutions and identify ways of making regulation more future-oriented and fit for the digital age.

Challenge

The accelerating digital transformation of businesses and society poses both new opportunities and challenges for EU regulation. EU regulation needs to be fit for the digital reality of businesses and citizens, enable user-friendly digital solutions and promote innovation, including new technologies and business models. Digital-by-default and future-proof regulation is a precondition for a well-functioning Digital Single Market, which is both genuinely *digital* by promoting innovation, new technologies and business models and *single* by enabling more seamless, efficient and user-friendly national and European digital public services that reduce burdens for businesses and citizens operating across the EU. This is an opportunity to improve public services and provide European businesses with the competitive edge which is crucial for succeeding in the fast-moving global digital economy.

Background

Existing and new regulation is often not designed to accommodate the way in which new technologies and business models can create new value for businesses and society. We still see proposals that are not suited

to the current digital reality of businesses or are difficult to digitalise and automatise by public authorities. The Commission has already included a “Research and Innovation Tool” and a “Digital Check” in its Better Regulation Toolbox. These are steps in the right direction, but there is a need to step up these efforts by placing principles on digital-by-default and future-proof regulation at the heart of the Commission’s better regulation machinery. This will ensure that EU regulation is suited to the digital reality, reduces unnecessary burdens and enhances well-functioning national and European digital public services for the benefit of businesses, citizens and the authorities themselves. We stand ready to engage in dialogue with the Commission to develop such measures as we have introduced similar measures at national level.

Annex 1: Principles for digital-by-default and future-proof regulation

To ensure that EU regulation is digital-by-default and future-proof, the Commission should introduce a set of principles on digital-by-default and future-proof regulation and initiate targeted measures at all stages of the legislative cycle to enforce these principles. These measures should have a two-fold purpose:

- I. Enable digital administration to promote more user-friendly and efficient public services to businesses and citizens as well as to improve enforcement and prevent errors and fraud.
- II. Provide a future-oriented regulatory framework to accommodate and enable businesses to innovate and apply new technologies and business models.

Needless to say, safe and secure data handling is a fundamental precondition that should accompany these efforts.

Principles

The following principles should be promoted at EU-level:

1. Simple and clear rules

Simple and clear rules are easy to administer and contribute to more uniform administration and digital support. If the legislation is unclear or complex with many exceptions, requirements, schemes or discretion it can be difficult to administer - also digitally. Legislation should focus on the main objectives while detailed specifications should be handled in delegated or implementing acts which will enable easier and continuous updating of the legislation.

2. Accommodate new business models and technology-neutrality

The legislation should foster innovation by accommodating emerging and new business models and promoting the use of experiments and sandboxing. It must also be technology-neutral to ensure that it does not regulate the use of technology which will subsequently become obsolete

3. Digital communication

The legislation must support user-friendly digital communication between citizens and businesses and the public sector. For citizens who cannot use digital solutions, other solutions must still be offered.

4. Automated digital case processing

The legislation should underpin fully or partly automated digital case processing. As a general rule, the legislation should apply objective criteria, clear and unambiguous definitions and common concepts rather than special concepts. The goal is to enable automation by using objective criteria when it makes sense and to ensure that it is still possible to exercise discretion in cases where it is professionally relevant.

5. Coherence and consistency across regulation and authorities - uniform concepts and reuse of data

Legislation should be coherent across policy silos in order to prevent fragmentation and regulatory uncertainty. Concepts and data must be reused across regulation and authorities to promote efficiency and coherence to thereby reduce burdens for both authorities, citizens and businesses. If data already exists that supports the concepts of the legislation, the legislation should reuse these or consider whether other similar concepts may be used for data that is already available.

6. Improving enforcement and preventing errors and fraud

The legislation must be worded to permit effective IT application and data-driven solutions and tools to ensure better compliance and enforcement through risk-based control. Such solutions can improve the combatting of fraud or reduce errors considerably.